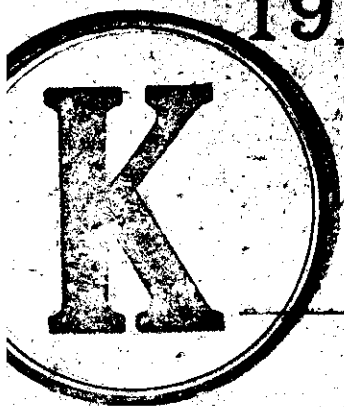




1949.

File No. Dist. Police II/49
Legal Department (N)

B BRANCH

Subject: —

Notifications under the
Bombay District Police
Act 1890

File No. Dist. Police II/49 (N)

Gen. 194

122-B

Legal Department.

The question for the consideration are --

- (1) whether the direction of the Provincial Government under sub-section (2) of section 25 of the Bombay District Police Act should be notified along with the notification under sub-section (1); and
- (2) whether the direction as regards the recovery of the cost under sub-section (2) can be subsequently amended.

In the Privy Council case Bhagchand vs. Secretary of State for India, 29 B.L.R. p. 1227, at p. 1231, it is observed that though the employment of the additional Police in the first instance has to be directed by notification, the mode in which the cost is to be defrayed is to be simply directed by Government in accordance with sub-section (2)(a) and (b). From this it appears that a publication of the notification under section 25(1) in the Gazette is necessary. The orders regarding the mode of the recovery of the costs need not be embodied in that notification but may be issued by means of a resolution which can be amended from time to time on sufficient grounds.

Sd/ 21-1.

Additional Secretary to Government.

U.R. to H.D., N^o. 51-conf. dated the 21st January 1946

Legal Department.

The Home Department draft notification at p. 23 ante. which has been prepared in view of the R.L.A.'s opinion No. 11613 dated the 18th October 1949 is not in order. In the first place it would not be correct to refer to the areas by the name of the former Indian States as the areas in question form part of the various talukas of the districts. Secondly it is not now competent after the complete merger to appoint a District Superintendent of Police for a part of the area in the same district as such appointment will be inconsistent with the provision of section 6 of the Bombay District Police Act, 1890 read with the definition of "district" as defined in section 3(d). After the complete merger of Indian States all the existing districts have been reconstituted or new have been created by the following three Political and Services Department notifications under the Code of Criminal Procedure -

- (1) No. 3198/46-F-V, dated the 31st July 1949;
- (2) No. 3198/46-FVI, dated the 31st July 1949; and
- (3) No. 3198/46-F-VII, dated the 31st July 1949.

The ~~San~~ Sangli District referred to in Home Department draft at p. 23 now forms part of Satara South district for the purpose of the Code.

2. The R.L.A.'s opinion referred to applies to all Police Officers in the district and not to a District Superintendent of Police only. The Home Department may therefore issue a notification in the accompanying general form or the second alternative would be to appoint the existing Police Officers by name to the districts as reconstituted or created under the aforesaid three Political and Services Department notifications.

56/ 24-11

Additional Secretary to Government.

U.R. to H.D.No. 13512

dated the 25th November 1949.

Legal Department.

Section 42 of the Bombay District Police Act, 1890 (Bom. IV of 1890) inter alia provides that the Magistrate of the district may, whenever and for such time as it shall appear necessary, by a notification publicly promulgated or addressed to individuals prohibit in any town or village or the vicinity thereof the carrying of arms, & cudgels or other weapons etc. ----- which may be of persons or of corpses thereof etc. ----- which may be of a nature to outrage morality or decency or in the opinion of such Magistrate, may probably inflame religious animosity or hostility between different classes or incite to the commission of an offence, to a disturbance of the public peace or to resistance to or contempt of the law or of a lawful authority.

It will be necessary to have three sets of model orders under section 42(1) of the Bombay District Police Act, 1890. One order will relate to the prohibiting of exhibition of persons or corpses or figures thereof etc. which may be of a nature to outrage morality or decency. The other order will relate to the doing of acts which in the opinion of the Magistrate may probably inflame religious animosity or hostility between different classes. The third order will relate to the doing of acts which in the opinion of the Magistrate may probably incite to the commission of an offence, to a disturbance of the public peace or to resistance to or contempt of the law or of a lawful authority.

Three model draft orders are accordingly sent herewith.

53/ 26-11

Additional Secretary to Government.

U.R. to H.D. No. 13581 dated the 26th November 1949.

Legal Department

A revised draft is sent herewith. The draft is wide enough to exclude the sale of books of ~~dreams~~ or other programmes in the auditorium. The prohibition proposed in the Home Deptt. draft applies to a holder of a licence for premises. It should also extend to a hawker himself so that both a holder of licence and hawker can be made liable for punishment under section 65 of the Act.

The amendment being of model Rules, the Magistrates will have to take further steps of amending the rules made by them in the area within their jurisdiction (vide R.L.A.'s opinion No. 1333, dated the 4-2-1949).

Sd/ 8-12

Additional Secretary to Government.

U. P. to H.D. , No. 14238 , dated the 8th December 1949.

S.C. 2/6